

IN THE SUPREME COURT OF FLORIDA

INQUIRY CONCERNING A
JUDGE NO. 02-487

Supreme Court Case No.:
SC03-1171

THIRD PRE-HEARING STATEMENT

Judge Gregory P. Holder files this Pre-Hearing Statement,¹ pursuant to the Order of the JQC Hearing Panel Chairman dated June 18, 2004.

BACKGROUND

The Florida Judicial Qualifications Commission filed a Notice of Investigation on April 1, 2003, based on its receipt of copies of documents anonymously submitted to a military reserve officer in 2002, which in turn were submitted to the United States Air Force on January 17, 2003. The documents included a paper purportedly plagiarized by Judge Holder submitted to the Air Force's Air War College in January 1998.

Based on the unauthenticated copies of documents, the JQC filed its Notice of Formal Charges on July 16, 2003. The Charges included violations of Canons 1, 2, and 5 of the Code of Judicial Conduct. Judge Holder emphatically denied all of the charges against him. Judge Holder specifically denies that he violated Canons 1, 2, or 5 of the Code of Judicial Conduct.

¹ Discovery is ongoing. Respondent reserves the right to supplement this Statement following completion of all discovery. Respondent also reserves the right to file any necessary Motions regarding constitutional and dispositive issues following the completion of discovery.

After months of discovery, the documents remain unauthenticated. Witnesses have come forward and have given sworn statements that the document attached to the Notice of Formal Charges as Exhibit "A" is not the document which Judge Holder gave these witnesses to review in early 1998. The Air Force, Judge Holder, and each person who was shown or read the actual AWC paper submitted by Judge Holder to the Air Force in 1998 has retained a copy of that document – be it a hard copy or a computer copy.

The Air Force officer who graded the AWC papers in the 1997-1998 academic year, Col. Howe, has given sworn testimony that he could not authenticate the purported Holder Paper (Exhibit A) as the paper submitted by Judge Holder which received a "satisfactory" grade. Col. Howe has graded thousands of papers on the topic chosen by Judge Holder, and, admitting that it is impossible to authenticate the documents at issue in deposition, he has identified the purported Holder Paper as well as several other AWC papers as being graded by him when actually the exhibits were artificially generated.

WITNESSES who may be called by Respondent, subject to Respondent's Motions In Limine, include:

Lorraine Nasco – testimony regarding access to chambers and computers, Judge Holder's drafting, and the finalization of the AWC paper submitted in January 1998.

Sylvia B. Morgan – testimony regarding, Judge Holder's AWC paper as well as regarding the unauthorized presence of court personnel in Judge Holder's private chambers in July 2000.

John S. Vento, Esq., Colonel, USAFR – testimony regarding the Air War College paper which Judge Holder submitted to the Air Force and which Mr. Vento reviewed at that time.

James C. Russick, Esq., Lt Col USAFR (Retired) – testimony regarding participation in the AWC seminar with Judge Holder and Col. Perry, researching for the AWC paper at MacDill AFB library with Judge Holder, regarding the Air War College paper which Judge Holder submitted to the Air Force and which Mr. Russick reviewed at that time.

Kenneth E. Lawson, Esq., Assistant U.S. Attorney – testimony regarding Judge Holder’s AWC paper and Hoard Paper; review of disavowal of certain statements by Jeffrey Del Fuoco.

Dennis M. Alvarez, Esq., former Chief Judge of the Thirteenth Judicial District of Florida (Hillsborough County) – testimony regarding receipt from Judge Holder of complaints of illegal actions and corruption among judges and court personnel in the Thirteenth Judicial District of Florida (Hillsborough County), and knowledge of investigations into those allegations.

Robert M. Bonnano, Esq., former Circuit Judge of the Thirteenth Judicial District of Florida (Hillsborough County) – testimony regarding his and others’ relationship with Judge Holder, the circumstances re unauthorized presence in Judge Holder’s private chambers, and his role as a judicial officer.

Jeffrey J. Del Fuoco, US Army (Reserve), Assistant U.S. Attorney – testimony regarding the circumstances surrounding receipt of Exhibits A and B, the location of related materials, the disposition of the exhibits from his receipt until forwarding to Jeffrey S. Downing, a colleague; testimony regarding packet of documents “discovered” in October 2003 and forwarded to Air Force and JQC, employment status at time of these events.

Col. David M. Leta, USAFR, Assistant U.S. Attorney – testimony regarding the investigation conducted by him into the allegations at issue.

Jeffrey S. Downing, Assistant U.S. Attorney – testimony regarding the circumstances surrounding receipt of Exhibits A and B, the location of related materials, the disposition of the exhibits from his receipt until forwarding to the

Air Force; testimony regarding packet of documents received in October 2003 and forwarded to Air Force and JQC.

Col. Mary V. Perry, USAF – testimony regarding the Air War College seminars which she attended with Judge Holder, the AWC paper she wrote and submitted, and persons to whom she may or may not have given copies of her paper.

Col. Dixie Morrow, USAF – testimony regarding the Air War College seminars which she attended, conversations with Judge Holder re: writing the AWC paper and problems encountered, and confirmation of practice of AWC students.

Lt. Col. John Odom, – testimony regarding substantive Air Force matters, including, Air Force Promotion Board proceedings, and Judge Holder's military duties.

Col. John Powers, ASAF – testimony regarding substantive Air Force matters.

Col. Howard Donaldson, ASAF – testimony regarding substantive Air Force matters.

Lt. Col. Lauren Johnson-Naumann, USAF – testimony regarding substantive Air Force matters, including evidence discovered in defense of Air Force investigation.

Lt. Col. William O. Howe, Jr., USAF – testimony regarding the AWC grading process and inability to authenticate Exhibit A and related exhibits and confirmation of certain anomalies in Exhibit A (by deposition, November 20, 2003).

Lt. Col. Charles A. Howard, USAF – testimony confirming the attendance of Judge Holder, James C. Russick, and Mary V. Perry in the AWC seminar at MacDill AFB in 1997-98, explaining the AWC grading process, confirming that the Air Force has not retained the original of the Holder's AWC paper (Exhibit A to the Notice of Formal Changes) or the grader's correspondence to Judge Holder, and confirming that the Air Force is unable to authenticate Exhibit A (by deposition November 19, 2003).

Maj. Gen. Frank Ragano, US Army – testimony regarding instruction in Air War College, warnings regarding plagiarism given to AWC students, means to detect plagiarism, and steps or mechanism in place to detect plagiarism.

Detective James Bartoszak – testimony regarding Judge Holder’s being a participant in undercover corruption investigation.

Detective Dolvin “Bill” Todd – testimony regarding Judge Holder’s being a participant in undercover corruption investigation.

Special Agent Kelly Thomas – testimony regarding soliciting Judge Holder as a participant in undercover corruption investigation.

Col. E. David Hoard – testimony regarding Air War College paper and course.

Judge Gregory P. Holder – testimony regarding all issues raised in this proceeding.

Scott Peterka – testimony regarding the investigations.

John T. Crow, Ph.D. – testimony regarding applied linguistics, applied grammar, stylistic elements of writing composition and composition analysis of texts, including the Hoard and non-Hoard portions of the purported Holder paper and separate writing exemplars of Judge Holder.

Bruce Dekraker – testimony regarding analysis of authenticity of documents, including the purported Holder paper.

Allen Cohen – testimony regarding graphic reproduction, manipulation techniques, , and Adobe Photoshop.

Patricia T. Williams and/or Walter Williams – testimony regarding printing and graphic reproduction techniques.

Michael S. Musial – testimony regarding computer technology, record manipulation, computer backup and record preservation.

David Greetham – testimony regarding backup tapes, computers, and computer files.

Bradley D. Lutz – testimony regarding Hillsborough County Courthouse information systems.

Mildred R. Becky Stafford – testimony regarding Hillsborough County Courthouse information systems.

CHARACTER WITNESSES (Subject to Witness Availability)

Kenneth Ambler, Esq.
Honorable Lamar Battles
Howard L. Donaldson, Colonel (USAF Ret.)
Honorable William Levens
Honorable James S. Moody, Jr.
Timon V. Sullivan, Esq.
Hon. Martha Cook
Robert Williams

EXHIBITS:²

Deposition of Lieutenant Colonel Charles A. Howard and Exhibits, (November 19, 2003)

Affidavit of Lieutenant Colonel Charles A. Howard (March 11, 2003)

Deposition of Lieutenant Colonel William O. Howe, Jr. and Exhibits
(November 20, 2003)

Affidavit of Lieutenant Colonel William O. Howe, Jr. (March 10, 2003)

Affidavit of Lieutenant Colonel William O. Howe, Jr. (August 20, 2003)

Deposition of Lorraine Nasco and Exhibits (November 5, 2003)

Affidavit of Lorraine Nasco (April 4, 2003)

Affidavit of Lorraine Nasco (June 27, 2003)

Affidavit of Lorraine Nasco, (August 31, 2003)

² List subject to rulings upon all motions to exclude. By listing item as exhibit, Judge Holder does not waive any objections to the admissibility thereof.

E-mail of Lorraine Nasco, (April 16, 2003)

Deposition of James W. Bartoszak and Exhibits (December 10, 2003)

Affidavit of James W. Bartoszak (October 27, 2003)

Deposition of Sylvia B. Morgan and Exhibits (December 10, 2003)

Affidavit of Sylvia B. Morgan (June 26, 2003)

Deposition of Michael S. Musial and Exhibits (December 10, 2003)

Affidavit of Michael S. Musial (September 2, 2003)

Graded Hoard Paper and accompanying Letter

Deposition of Dolvin W. Todd, Jr. and Exhibits (December 10, 2003)

Affidavit of Dolvin W. Todd, Jr. (August 13, 2003)

Deposition of Walter Williams and Exhibits (January 8, 2004)

Deposition of Patricia Williams and Exhibits (January 8, 2004)

Declaration of Bradley D. Lutz

Declaration of Becky Stafford (August 16, 2004)

Unsealed Grand Jury Testimony of former Chief Judge F. Dennis Alvarez, August 25, 2000

Unsealed Grand Jury Testimony of former Circuit Judge Robert H. Bonnano, November 15, 2000

Affidavit of Howard L. Donaldson (June 3, 2003)

Affidavit of E. David Hoard (March 6, 2003)

Affidavit of Kenneth E. Lawson (November 14, 2003)

Affidavit of Lt. Col. Dixie A. Morrow (June 4, 2003)

Affidavit of Col. Mary V. Perry (May 28, 2003)

Affidavit of Col. Mary V. Perry (November 12, 2003)

Affidavit of Lt. Col. James C. Russick (August 5, 2003)

Affidavit of John Sebastian Vento (August 5, 2003)

Affidavit of James J. Cusak, Esq.

Affidavit of Lieutenant Colonel John Odom

Affidavit of Colonel Glenn Spitzer

Affidavit of Lieutenant Colonel Daryl Trawick

Affidavit of Lieutenant Colonel Kirk Granier

Affidavit of Clifton Curry, Esq.

Affidavit of Patricia Anderson Fields, Esq.

Affidavit of Sharon Morgan Vollrath, Esq.

Affidavit of Jerry Hill

Affidavit of M. Blair Payne

Affidavit of Major Christine R. Bosau

Letter of Major Kenneth C. Ambler to Gen. Thomas J. Fiscus

Test Results and Grades from Holder's Air Force Continuing Education Classes:
Squadron Officer School, Air Command and Staff College, and Air War College

Adobe Photoshop Manual

Air Force Awards Bestowed on Gregory P. Holder

Attendance Records of Air Force Continuing Education Classes re: Gregory P. Holder

Course Materials from the Air War College

Gregory P. Holder's Air Force Active Duty Records

Gregory P. Holder's Application for Federal Judgeship

Copy of Purported Holder Paper Received from Jeffrey Del Fuoco (Exhibit A to JQC Notice of Formal Changes)

Fascimile Transmission of E. David Hoard's AWC Paper to Judge Holder Received from Jeffrey Del Fuoco (Exhibit B to JQC Notice of Formal Changes)

Commander Directed Investigation, Gregory P. Holder, 16 March 2003 Prepared by Colonel David M. Leta (CDI)

Supplemental Report to Commander Directed Investigation, Colonel David M. Leta, 19 April 2003

Letter of Reprimand, Colonel Rita Russell to Colonel Gregory P. Holder, 18 April 2003 (with attachments)

Document Retrieved from Courthouse Backup Files of Lorraine Nasco, last accessed December 5, 1997 at 3:46 PM

Lorraine Nasco's Attendance Records at the Courthouse

Computer files on Courthouse computers and back up tapes, and printouts related thereto

Judicial Automated Data System Meeting Recap (November 16, 2001)

AWC Paper submitted by Lieutenant Colonel Mary V. Perry, April 1998

Documents found by Jeffrey Del Fuoco in October 2003, Bates-stamped KELjd 1-171

Purported Holder Paper as contained in KELjd1-171

Memo from Jeffrey Del Fuoco to Col. Thomas Jaster, November 2, 2003, re: origin of KELjd 1-171

AWC Paper by Mary V. Perry as contained in KELjd1-171.

Dated: August 25, 2004

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'David B. Weinstein', is written over a horizontal line.

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